



Office of the Commissioner,
Commercial Tax, Uttar Pradesh,
(GST Section)

Letter No. GST/2020-21/08 /Commercial Tax

Dated:16 August, 2020

To

All Zonal Additional Commissioner, Grade -1,
Additional Commissioner, Grade -2, (S.I.B.),
Joint Commissioner, (Executive/Corporate Circle/ S.I.B),
Commercial Tax, Uttar Pradesh.

Subject: Clarification relating to application of sub-rule (4) of rule 36 of the UPSGST Rules, 2017 for the months of February, 2020 to August, 2020.

Vide Circular No. GST/2019-20/1920069/741 Commercial Tax dated 25th November, 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Uttar Pradesh Goods and Services Tax Rules, 2017 (hereinafter referred to as the UPSGST Rules) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Uttar Pradesh Goods and Services Tax Act, 2017 (hereinafter referred to as the UPSGST Act) were clarified.

2. Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No.-440/XI-2-9(42)/17 U.P. GST Rules-2017-Order-(122)-2020 Dated 18.05.2020 it had been prescribed that the condition made under sub-rule (4) of rule 36 of the UPSGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that the return in **FORM GSTR-3B** for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months.

3. To ensure uniformity in the implementation of the said provisions across the field formations, the Commissioner, in exercise of its powers conferred under section 168 of the UPSGST Act hereby clarifies certain issues in succeeding paragraphs.

3.1 It is re-iterated that the clarifications issued earlier vide Circular No. GST/2019-20/1920069/741 Commercial Tax dated 25th November, 2019 shall still remain applicable, **except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the UPSGST Rules.** Accordingly, all the taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under sub-section (1) of section 37 of the UPSGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in **FORM GSTR-1** for the month of September, 2020 as reflected in GSTR-2As.

3.2 Taxpayers shall reconcile the ITC availed in their **FORM GSTR-3Bs** for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said months, till the due date of furnishing **FORM GSTR-1** for the month of September, 2020. The cumulative amount of ITC availed for the said months in **FORM GSTR-3B** should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the UPSGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September, 2020.

3.3 It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section

(1) of section 37 of the UPSGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the UPSGST Act.

3.4 The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of FORM GSTR-3B, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the UPSGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

4. The manner of cumulative reconciliation for the said months in terms of proviso to sub- rule (4) of rule 36 of the UPSGST Rules is explained by way of illustration, in a tabulated form, below.

Table I

Tax period	Eligible ITC as per the provisions of Chapter V of the UPSGST Act and the rules made thereunder, except rule 36(4)	ITC availed by the taxpayer (recipient) in GSTR-3B of the respective months	Invoices on which ITC is eligible and uploaded by the suppliers till due date of FORM GSTR-1 for the tax period of September, 2020	Effect of cumulative application of rule 36(4) on availability of ITC.
Feb, 2020	300	300	270	Maximum eligible ITC in terms of rule 36 (4) is 2450 + [10% of 2450] =2695. Taxpayer had availed ITC of 2750. Therefore, ITC of 55 [2750-2695] would be required to be reversed as mentioned in para 3.4. above.
March, 2020	400	400	380	
April, 2020	500	500	450	
May, 2020	350	350	320	
June, 2020	450	450	400	
July, 2020	550	550	480	
August, 2020	200	200	150	
TOTAL	2750	2750	2450	
ITC Reversal required to the extent of 55				
September, 2020	500	385	350	10% Rule shall apply independently for September, 2020
In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of 385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)				

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Hindi version will follow.

6. Difficulty, if any, in implementation of this circular may please be brought to the notice of the Commissioner .

7. Hindi version will follow soon.


(Amrita Soni)

**Commissioner, Commercial Tax,
Uttar Pradesh**